

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IMPINJ, INC.,  
Plaintiff,

v.

NXP USA, INC.,  
Defendant.

Case No. 19-cv-3161-YGR

**PRETRIAL ORDER NO. 1A RE: RE-TRIAL  
DATE**

Having granted the motion for a new trial as to the '302 Patent (Dkt. No. 471) and for good cause shown, the Court enters the following orders:


1. **Trial Date and Schedule:** The re-trial of this matter shall proceed in Courtroom 1 of the United States District Court in Oakland, California on **March 18, 2024 at 8:00 a.m.**
2. All orders regarding trial process generally shall remain in effect as set forth in Pretrial Orders Nos. 1-4 which are incorporated herein by reference. Any questions regarding the applicability of any such order shall be brought to the attention of the Court by the next pretrial conference.
3. Given the re-trial is more narrow, the parties shall each be afforded eight (8) hours to present their case, including opening statements and closing arguments.
4. The next pre-trial conference is set for **January 31, 2024 at 2:00 p.m.** in Courtroom 1.
5. **Witness and Exhibit Lists:** New witness and exhibit lists shall be filed seven (7) business days before the next pre-trial conference. In addition, the parties shall deliver via email a single joint list of all witnesses, attorneys, and others involved in the trial, in alphabetical order to be used for prospective jurors.
6. **Jurors and Peremptory Challenges:** The Court will seat a total of eight (8) jurors and no alternates. The Court sets the number of peremptory challenges at three (3). Motions under *Batson v. Kentucky*, 476 U.S. 79 (1986) for improper use of challenges must be made in a timely fashion. Argument on the same shall be made outside the presence of the jury panel. The Court will conduct the *voir dire* and give the parties fifteen (15) minutes to address the

prospective jurors. Parties should also visit the Court's website to see the video shown to jurors on implicit bias.

7. **Fed. R. Civ. P. 68 Offers:** All offers of judgment made under Fed. R. Civ. P. 68 shall be lodged with the Court fourteen (14) days before the trial.
8. The parties shall provide the Court with updated documents for the juror binders fourteen (14) days before the trial. They shall include the following:
  - (i) A glossary of technical terms;
  - (ii) Color-coded handouts identifying the specific language of the claims which is at issue in the patents and its import to the action. The handouts should also include any constructions made by the Court or to which the parties have stipulated. Alternatively, a chart may be a better mechanism for communicating that particular information;
  - (iii) A common timeline of events, if appropriate and useful;
  - (iv) Copies of the patents (on double-sided paper). The copies of the patents should highlight or box the claims at issue;
9. **Procedural Stipulations:** The procedural trial stipulations to which the parties previously stipulated shall be deemed effective in this trial. To the extent any objections exist, the parties shall contact the Court immediately.
10. **Trial Exhibit Certification:** Upon conclusion of the trial, the parties shall review the exhibits and confirm the accuracy of those going into the jury room. Parties will be required to provide an index of all admitted exhibits before closing argument which shall be provided to the jury. As before, the parties shall complete, deliver, and file the trial exhibit certification.
11. **Other Orders:** The parties shall meet and confer on whether additional evidence regarding injunctive relief will be offered to the Court after the jury is charged and deliberating.

**IT IS SO ORDERED.**

Dated: November 3, 2023

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE